

REMARKS

Applicant is in receipt of the Office Action mailed October 21, 2004. Claims 1-31 are pending. Reconsideration of the present case is earnestly requested in light of the following remarks.

Applicant is in receipt of the Interview Summary mailed October 21, 2004 for the Interview conducted July 13, 2004. Applicant respectfully submitted a summary of the Interview conducted July 13, 2004 in the "Remarks" section of the Response mailed July 16, 2004 where ". . . Applicant agreed to amend the independent claims to clarify the nature of a graphical program, specifically, that a graphical program is a program that is executable by a computer system, and that graphical program nodes are included in frames of the graphical program in response to user input. The Examiner stated that this would overcome the art of record, but that Examiner may perform a new search. (*emphasis added*)" However, the Interview Summary mailed October 21, 2004 asserts that an "[a]greement with respect to the claims was not reached (*emphasis added*)." In the Office Action mailed October 21, 2004, Examiner has rejected all of Applicant's claims based on "the art of record" from the Interview conducted July 13, 2004. Applicant respectfully submits that this rejection is not consistent with Applicant's understanding of the telephone interview that was conducted.

Applicant also respectfully notes that Mark S. Williams, Reg. No. 50,658, represented Applicant as a participant in the Interview conducted July 13, 2004.

§102 Rejections

Claims 1-10 and 13-31 were rejected under 35 U.S.C. 102(b) as being anticipated by Kaiser et al. (U.S. Patent No. 4,970,664, hereinafter "Kaiser"). This rejection is respectfully traversed.

Applicant respectfully submits that Kaiser neither teaches nor suggests ". . . displaying a plurality of frames in the graphical program such that two or more

frames are visible at the same time, wherein the graphical program comprises a plurality of interconnected graphical program nodes that graphically represents functionality of the graphical program, and wherein the graphical program is executable by a computer system to perform the functionality. . .(emphasis added)” as recited by claim 1.

Examiner asserts in the Office Action: “With regard to claim 1, further teaching the program being executable on a computer system, Kaiser teaches, in column 3, line 30 through column 4, line 2, a graphical program made up of instructions executable by the computer system” (*emphasis added*). Applicant respectfully notes MPEP 707.07(d) which requires that, in an Examiner’s Action, the ground of rejection, should be “fully and clearly stated”. Applicant respectfully submits that Examiner has not “fully and clearly stated” where Kaiser is purported to teach “. . . a graphical program made up of instructions executable by the computer system” as asserted in Examiner’s Action.

Furthermore, Applicant is unclear as to whether or not Examiner is equating “the program” with “a graphical program”. Kaiser discloses various programs in col. 3, line 30 - col. 4, line 2; however, Applicant respectfully submits that none of the programs described and disclosed therein teach or suggest “. . . wherein the graphical program comprises a plurality of interconnected graphical program nodes that graphically represents functionality of the graphical program, and wherein the graphical program is executable by a computer system to perform the functionality. . .(emphasis added)” as recited by claim 1.

Applicant respectfully submits that Kaiser teaches in col. 3, line 30 - col. 4, line 2 creating “schematic sheets for circuit design” which include “. . . circuit data entered graphically by the designer via the schematic editor includes component symbols taken from a library and connections between the components to create the circuit”, and that “. . . this data is placed by the schematic editor in various data structures where it can be accessed by other design automation packages such as fault simulator, logic simulators, and timing analyzers.”

In contrast, Applicant’s invention as recited in claim 1 includes in pertinent part, “. . . displaying a plurality of frames in the graphical program such that two or more frames are visible at the same time, wherein the graphical program comprises a plurality

of interconnected graphical program nodes that graphically represents functionality of the graphical program, and wherein the graphical program is executable by a computer system to perform the functionality. . (emphasis added)” Kaiser neither teaches nor suggests this feature. Thus, Applicant respectfully submits that claim 1 is patentably distinguished over Kaiser.

Furthermore, Applicant respectfully submits that Kaiser neither teaches nor suggests “. . .wherein the plurality of frames define an execution order for the plurality of portions of graphical source code such that during execution of the graphical program the plurality of portions of graphical source code are executed sequentially in accordance with the execution order defined by the plurality of frames (emphasis added).”

Rather, Kaiser teaches and discloses tracing and simulating signal paths where “A signal path is considered to be a sequence of pins through a design that a signal will follow” (Kaiser col 1, lines 45-47) (emphasis added). In other words, according to Kaiser a sequence of pins defines an order. Since the sequence of pins defines the order regardless of which schematic sheet where the sequence of pins appears, display portions which represent schematic sheets or levels in schematic sheets and are bounded by separators (e.g., separators 20a and 20b such as those illustrated in Kaiser’s Figure 2) do not define an order.

As the Examiner is certainly aware, anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicant respectfully submits that, at least for one or more reasons presented, claim 1 and those dependent therefrom are allowable.

Claims 14 and 21 include limitations similar to claim 1, and so the arguments

presented above apply with equal force to these claims, as well. Applicant respectfully submits that for at least the one or more reasons presented above, claims 14 and 21, and those claims respectively dependent therefrom are patentably distinguished over Kaiser and are allowable.

Removal of the §102 rejections is respectfully requested. Applicant also respectfully submits that the independent claims are nonobvious and are allowable as well based on the arguments above.

§103 Rejections

Claims 11 and 12 were rejected under 35 U.S.C. as being unpatenable over Kaiser and Kodosky et al. (U.S. Pat. No. 5,301,301, hereinafter “Kodosky”). This rejection is respectfully traversed.

The Office Action cites various of the dependent claims as being rejected under 35 U.S.C. 103. The independent claims have been argued to overcome rejections under 35 U.S.C. 102. Applicant respectfully submits: “If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)” as stated in the MPEP §2143.03. Accordingly, Applicant respectfully submits that claims 11 and 12 are allowable.

Furthermore, Applicant respectfully submits that there is no teaching, suggestion, or motivation to combine Kaiser and Kodosky in either of the references or in the prior art. As held by the U.S. Court of Appeals for the Federal Circuit in *Ecolochem Inc. v. Southern California Edison Co.*, an obviousness claim that lacks evidence of a suggestion or motivation for one of skill in the art to combine prior art references to produce the claimed invention is defective as hindsight analysis. Moreover, Applicant respectfully submits that it is nonobvious to combine Kaiser and Kodosky.

Removal of the §103 rejections is respectfully requested.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-49000/JCH.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard

Respectfully submitted,



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